

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

**JAMES MARKS**

Claimant

VS.

**U.S. FOOD SERVICE**

Respondent

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Docket No. 222,709

**ORDER**

Claimant requested review of the Order dated July 8, 1997, entered by Administrative Law Judge John D. Clark.

**APPEARANCES**

Joni J. Franklin of Wichita, Kansas, appeared for the claimant. Kurt W. Ratzlaff of Wichita, Kansas, appeared for the respondent.

**ISSUES**

The Administrative Law Judge denied claimant's request for either additional medical treatment or an independent medical evaluation. Claimant has requested the Appeals Board to review that denial. Respondent, on the other hand, contends the Appeals Board lacks jurisdiction to review the Administrative Law Judge's Order.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

After reviewing the entire record, for purposes of preliminary hearing the Appeals Board finds as follows:

Claimant's request for Appeals Board review should be dismissed.

This is an appeal from a preliminary hearing. K.S.A. 44-534a, as amended, limits the Appeals Board's jurisdiction in preliminary hearing appeals to the following issues: (1) whether the employee sustained an accidental injury, (2) whether the injury arose out of and in the course of employment, (3) whether notice and claim were timely, and (4) whether certain defenses apply.

Because the issues whether claimant requires additional medical treatment or whether the situation requires an independent medical evaluation are not designated by K.S.A. 44-534a, as amended, as reviewable from a preliminary hearing, the Appeals Board lacks the jurisdiction and authority at this juncture of the proceeding to address them.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that claimant's request for Appeals Board review should be, and hereby is, dismissed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of September 1997.

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BOARD MEMBER

c: Joni J. Franklin, Wichita, KS  
Kurt W. Ratzlaff, Wichita, KS  
John D. Clark, Administrative Law Judge  
Philip S. Harness, Director